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SUBJECT: JUDGES TO TRIAGE TARGETED IRAQI DETAINEES

Classified By: Political-Military Affairs Counselor David C. Litt

¶1. (C) At an April 23 meeting with MNF-I Deputy Commanding General - Detainee Operations, Acting Justice Attache, and Pol-MilOff, Judge Medhat Mahmoud, President of the Iraqi Higher Juridical Council (HJC), agreed to identify and deploy emergency panels of Iraqi investigative judges to triage critical Iraqi prisoner populations - including the so-called "Jadiriya Bunker" and "Site 4" detainees (see paras 4-5) - currently lacking access to due process.

¶2. (C) MNF-I will provide armored transport for the judicial panels, which will interview and ensure appropriate judicial action (release or expedited processing) on-site for prisoners held in Iraqi facilities, particularly those whose detention is irregular/undocumented and those who have experienced prolonged pre-trial detention without access to judicial review/counsel. Post will accompany initial expeditions and report on their progress.

¶3. (C) Judge Medhat also named a three-judge panel to accompany joint Iraqi-Coalition detention facility inspections starting April 25th. This panel has been given written authority by Medhat to exercise jurisdiction within Iraqi Ministry of Interior (MOI), Defense (MOD), and Justice (MOJ) facilities, and will be expected to authorize appropriate releases and (critically, in the cases of juvenile prisoners) transfers during the course of inspections.

¶4. (C) START BACKGROUND: Judicial inattention, under-capacity and intimidation are significant contributors to the poor material conditions and treatment common at MOI and MOD detention facilities. Iraqi pre-trial prisoners often linger for months in overcrowded, unsanitary, under-supplied warehouses managed by inexperienced guards while awaiting judicial hearings that should, in a functioning system, lead to their speedy release or trial in Iraqi court.

¶5. (C) Notably, of the 168 prisoners transferred from the Jadiriya Bunker to the MOJ Rusafa Prison in November 2005, one-third have yet to appear before a judge, and none appear to be under active preparation for trial. The 75 prisoners transferred from the MOI Site 4 facility to Rusafa in December 2005 have fallen into the same limbo, despite the fact that 46 are wholly undocumented and would appear to be held

without legal basis. END BACKGROUND.

¶6. (C) START COMMENT: This is not the first time the HJC has been approached with requests that it take action on specific groups of detainees whom we have identified as subject to egregious judicial neglect. However, we are hopeful that MNF-I's provision of transport and security escort, and perhaps the presence of Post officers, may encourage greater initiative and interest in adjudicating these cases from the designated judges.
KHALILZAD